



"The One to Call On".

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

January 16, 1995

Federal Communications Commission
Mr. Robert Spangler
Deputy Chief - Enforcement Division
Room 6206, "M" Street N.W.
Washington, D.C. 20524

DOCKET FILE COPY ORIGINAL

RE: Ex Parte Contact, CC Docket 93-22

Dear Mr. Spangler:

Enclosed for your information are copies of two articles that appeared in the December 1994/January 1995 issue of "Voice International, Incorporating World Telemedia" magazine.

If you have any questions regarding the attached information, I can be reached at 314-235-9855.

Sincerely,

A handwritten signature in cursive script that reads "Kim Williams".

Kim Williams
Area Manager-
Billing and Collections

Attachments

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INTERNATIONAL AUDIOTEX – THE BIG PICTURE

International audiotex is probably the fastest growing area of telecommunications and now accounts for 1.5 percent of international telephone traffic. Patrick Naughton provides an overview of the state of the international audiotex market.

REGULAR READERS of Voice International will have seen a growing number of advertisements extolling the virtues of international audiotex, and urging companies and individuals to enter this fast growing market. For those of you not already involved in this market, this article will attempt to explain how international audiotex works, the reasons for its growth and ways that it may develop in the future.

We are probably all familiar with domestic premium rate audiotex services, for example 0891 in the UK, 1-900 in the USA, 156 and 157 in Switzerland, and so it goes on. International audiotex operates in the same way in that a caller makes a call to a specific number and his call is answered by an IVR computer or an operator. The difference with international audiotex is that by definition the call is terminated in a country other than the country from which the caller is calling eg Hong Kong.

THE ACCOUNTING RATE

Compared to domestic audiotex there are a larger number of stages involved and therefore the information provider receives a far lower proportion of the price being paid by the caller than is normally

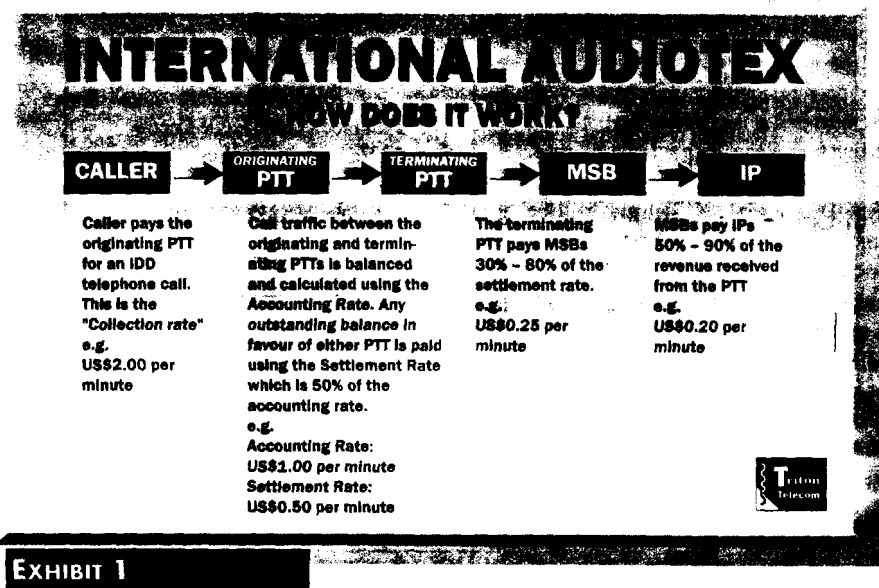
the case. Exhibit 1 demonstrates this more clearly. The accounting rate structure which makes international audiotex possible is largely obsolete in an age of satellite communications and cheap, high capacity, fibre optic cable. There is no automatic relationship between the collection rate paid by the caller and the accounting and settlement rates.

Major PTTs such as AT&T and British Telecom who are large net outpayers have been working hard to abolish the accounting rate structure with a new structure whereby the originating PTT keeps all the revenue and sets collection rates according to local market conditions and competition. However the accounting rate structure will not change overnight and a future therefore exists at least over the short to medium term for international audiotex.

International audiotex services started in 1990 as a substitute for domestic premium rate services in countries where domestic premium audiotex was not available. Since 1990 domestic PRS has been launched in a large number of countries with varying degrees of success and international audiotex is now increasingly a competitor to domestic PRS (see Exhibit 2). The biggest advantage and disadvantage of international audiotex for the information provider when compared to domestic PRS is that it is largely unregulated. This means that the IP can offer services which would not be allowed locally, however at the same time this also makes it more likely that the PTT or country in question will seek ways to stop international audiotex services.

Australia's Telstra OTC was the first to launch with its World Info Service in early 1990, followed by the Netherlands Antilles' PTT Landsradio in mid 1990 and Triton Telecom's Hong Kong-based WorldCall Service in late 1990. Since 1990 many of the world's major PTTs have entered the international audiotex arena (see Exhibit 3). The entry costs for terminating PTTs are virtually zero because the necessary infrastructure already exists and the cost of suitable IVR equipment to terminate calls is usually borne by managed service bureaus. Obviously PTTs with a large international line infrastructure have a major advantage over smaller PTTs, however smaller PTTs can use transit points or install extra line capacity with major target markets eg Germany.

Theoretically, almost all PTTs could offer international audiotex services although the target locations where their rates would be attractive will tend to depend on their accounting rate structure. This means, therefore, that European traffic will not tend to be terminated in Europe and with



Europe being the main originator of international audiotex traffic, the main termination points are situated in the Caribbean, South America and Asia.

International audiotex services now generate approximately 68 million call minutes per month with the largest terminating points being the Netherlands Antilles, the Dominican Republic, Hong Kong, Canada, Guyana and the Philippines (see Exhibit 4). International audiotex now accounts for 1.5 percent of international telephone traffic (source: Telegeography 1994), however in the case of smaller PTTs such as Landsradio and Codetel, it is responsible for the vast majority of their inbound call traffic.

BIG PLAYERS

In the case of larger PTTs such as Hong Kong Telecom and Telstra OTC, international audiotex was originally an instrument to bring down accounting rates and even out traffic imbalances. However, international audiotex has become such an important revenue stream for them that in many cases they are now seeking to stabilise or even increase accounting rates so as to maintain this revenue stream.

One solution for major terminating PTTs seeking to maintain their international audiotex revenues has been to open new termination points with more attractive accounting and settlement rates, good examples of this are Telstra OTC with its new Norfolk Island facility, Teleglobe with Moldova and CPRM Marconi with Sao Thome. At the same time US Telcos such as AT&T and GTE, feeling the heat on 1-900 services in the US, have increasingly directed this traffic to locations such as the Dominican Republic or Jamaica where they control or partially own the relevant telephone company.


International audiotex is also an important revenue stream for the PTTs that are originating this call traffic (see Exhibit 5) and their attitude towards this business area tends to depend on the convertibility of their currency, general balance of payments considerations and local public opinion. Therefore countries like Germany where it is estimated that Deutsche Bundespost Telekom generates revenues of over \$250 million per year are happy to see this traffic continue and have installed additional circuits with relevant termination points, however they would never publicly encourage this traffic and when challenged on it will hide behind international treaties as a reason for not barring it. Conversely less developed countries, in particular those in South America, Eastern Europe and Asia have actively fought against inter-

DOMESTIC PREMIUM RATE AUDIO	
<ul style="list-style-type: none"> No clear regulatory structure + Accessible from most countries + Acts as substitute for or supplement to domestic PRS + Low costs of entry for terminating PTTs, MSBs & IPs + Highly profitable for originating & terminating PTTs 	<ul style="list-style-type: none"> No clear regulatory structure - High cost to caller - IP receives small share of caller cost - Opportunities for fraud - Cannot be readily barred by companies

EXHIBIT 2

NETWORKS					
COUNTRY	PREFIX	TELCO/PTT	COUNTRY	PREFIX	TELCO/PTT
Australia	+61	Telstra OTC	Finland	+358	Finland
British Virgin Islands	+1 809	Cable & Wireless	Guyana	+592	PTT Guyana
Canada	+1 610 +1 600	Teleglobe Int'l	Hong Kong	+852 17	Hong Kong Int'l
Chile	+56	Entel & Intercable	Israel	+972	Bezek
Columbia	+57	Telecom	Jamaica	+1 809	Jamaica Digipoint Int'l (C & W/TOI/AT & T)
Cyprus	+357	CTA	Malaysia	+603	Telekom Malaysia
Dominican Republic	+1 809	Codetel (GTE)			

NOT ALL OF THE ABOVE NETWORKS MAY
BE ACTIVE AT THIS TIME
Source: Triton Telecom



NETWORKS					
COUNTRY	PREFIX	TELCO/PTT	COUNTRY	PREFIX	TELCO/PTT
Mariana Isl./Saipan	+670	N/A	St. Pierre & Miquelon	+508	France Telecom
Moldova	+373	Teleglobe Int'l	Sao Thome	+238	CPRM Marconi
Netherlands Ant.	+599	Landsradio	Suriname	+594	Telecom
Nicaragua	+505	Nicatelsat	Sweden	+46	Telecom
Norfolk Island	+672	Telstra OTC	USA	+1 400 +1 609 +1 500	AT & T AT & T MCI
Panama	+507	Intel			
Philippines	+63 988	PLDT			
Portugal	+351	CPRM Marconi			

NOT ALL OF THE ABOVE NETWORKS MAY
BE ACTIVE AT THIS TIME
Source: Triton Telecom




EXHIBIT 3

TOP 12 ORIGINATING NETWORKS			TOP 12 DESTINATING NETWORKS		
RANK	COUNTRY	ESTIMATED MONTHLY MINUTES (MILLIONS)	RANK	COUNTRY	ESTIMATED MONTHLY MINUTES (MILLIONS)
1	Netherlands Antilles	11.0	9=	Mariana Islands/Saipan	2.0
2	Dominican Republic	10.5	9=	USA	2.0
3=	Hong Kong	8.0	12	Moldova	1.0
3=	Canada	8.0			
5=	Guyana	5.0			
5=	Philippines	5.0			
7	Australia	3.0			
8	Sao Thome & Principe	2.5			
9=	Chile	2.0			
			TOTAL TOP 12:		60.0
			OTHER NETWORKS		8.0
			TOTAL ALL NETWORKS		68.0

Source: Triton Telecom Estimates

Star TV which are using international audiotex as the delivery medium. However call volumes to such services are low and are hampered by the small proportion of the charge of the caller received by the information provider.

This unequal distribution of revenue is the greatest failing of international audiotex and is the reason why it will be superseded by other billing mechanisms in the future. However at present other billing mechanisms such as credit cards are not feasible in the vast majority of target countries. Eventually in a deregulated world of telecommunications where billing will be via a smart card that can be inserted into a telephone, whether mobile or fixed line, then more equitable revenue sharing will emerge.

In the short to medium term, the larger PTTs will drop out of the business of terminating international audiotex traffic as accounting rates inevitably fall, smaller PTTs in less developed countries will be able to counter this pressure more effectively and will probably still be offering services in five years time.

International audiotex demonstrates conclusively that callers do not really care about the delivery medium as long as they receive the relevant information or entertainment that they seek. In other words a US caller will happily call a chatline in Outer Mongolia as long as the call is answered by an English-speaking operator.

The global information village has arrived and international audiotex is one of it's first manifestations but it is also one that will be rapidly rendered obsolete by new technologies.

EXHIBIT 4

The author is Patrick Naughton, Chairman and Chief Executive of the Triton Telecom Group of Companies. He can be contacted on: + 852 527 1126. +852 804 1689 (fax).

national audiotex by either blocking number access, not paying terminating PTTs or banning advertising. Ironically this has not stopped many of the same countries from acting as major international audiotex termination points.

When international audiotex was launched in 1990 most of the traffic was generated by relatively innocuous services such as horoscopes, however since 1990 international audiotex has become increasingly dominated by adult services, datelines and chatlines. One of the main reasons for this change being the launch of domestic PRS in important markets such as Germany. On the other hand there are an increasing number of high quality information services being launched by international satellite networks such as CNN, ESPN and

TOP 12 ORIGINATING NETWORKS			TOP 12 DESTINATING NETWORKS		
RANK	COUNTRY	ESTIMATED MONTHLY MINUTES (MILLIONS)	RANK	COUNTRY	ESTIMATED MONTHLY MINUTES (MILLIONS)
1	Germany	18.0	9=	Norway	2.0
2	USA	15.0	9=	Taiwan	2.0
3	Italy	7.5	12	UK	1.0
4	Spain	4.5			
5	Greece	3.0			
6	Poland	2.5			
7=	Canada	2.0			
7=	Czech. & Slov.	2.0			
9=	Hungary	1.5			
			TOTAL TOP 12:		60.0
			OTHER NETWORKS		8.0
			TOTAL ALL NETWORKS		68.0

Source: Triton Telecom Estimates

EXHIBIT 5

A GAME WITHOUT RULES



National telephone companies are reluctant to enforce, or even formulate regulations which tamper with such a lucrative industry as international audiotex. But, given sufficient provocation, they will. Paul Newton reports.

WHEN ANY COUNTRY LAUNCHES a domestic premium rate network, that network soon becomes typified by services offering all manner of sexual services. The resulting public outrage leads inevitably to either tough regulations or total closure of the network.

The vacuum left by the withdrawal or restriction of domestic phone sex can be quickly and easily filled by international audiotex providers offering similar services via international lines. Ironically, the launch of premium rate networks familiarises consumers with the idea of sex-over-the-phone and primes the pump for these more expensive international services when the domestic network fails to deliver. While there is no requirement that international audiotex be restricted to sex services, more

than 90 percent of traffic is sex or chat-line related.

Although international audiotex only started in 1991, it has grown phenomenally since then to the point where it is now generates gross revenues of between \$1bn and \$1.5bn annually. In 1991 there were four countries offering to terminate audiotex services, in 1994 there were more than 30. Countries with sophisticated telecommunications infrastructures such as Hong Kong and the US have been joined by a host of smaller players such as Guyana, Moldavia and Surinam.

The information providers they serve are an aggressively entrepreneurial group, scouring the globe for new countries to bombard with advertising and generate minutes. Sometimes they can find themselves victims of their own success and markets can disappear as quickly as they are discovered.

Argentina and Mexico have notified service bureaux running international lines into their countries that they will no longer pay for calls generated by audiotex. Last September Venezuela, Chile and Peru cut offending lines into their countries. The problem here is as much about money as about offending local sensibilities. Despite the fact that the originating telco receives the greatest share of the revenue (see separate panel 'No Accounting for Rates'), the sheer volume of calls that are generated by audiotex can present problems to countries with acute balance of exchange problems. Consumers pay their national telco (telephone company) in the local currency but the telco must find dollars to pay its foreign counterpart.

The closure of swathes of lucrative South American markets has forced players in the international

audiotex industry to concentrate their efforts once more on Europe. Nearer to home, telcos have no problem paying their bills but information providers can find that their services (and the manner in which they promote them) are equally unwelcome. In fact, no European country openly embraces international audiotex services despite the money they generate for the local telco, but some are more tolerant than others.

Germany, which has a very restrictive domestic audiotex scene, is by far the biggest single Euro-

pean market with an estimated 20m minutes a month generating enough revenue to keep the otherwise loss-making Deutsche Telecom in the black. Germany adheres to the view that because international audiotex is not premium rate it falls outside the remit of local regulations. The only restriction is an ad hoc self-regulating policy on advertising implemented by local media which limits how 'hard' advertisements can be.

Denmark takes a very different view and regularly chases international providers out of the country by shutting down the lines from offending terminating countries, or more precisely by removing automatic dialling and forcing calls to go through a live operator.

As far as the Danish Ministry of Communications is concerned, any service which is offered to consumers over the public telephone network must be agreed by Tele Denmark, and the telco is empowered to take whatever steps it thinks appropriate against rogue information providers. This neatly side-steps any convoluted arguments about whether international audiotex should be regarded as the same as premium rate. Whatever it may or may not be, it is certainly a service. International services are still available in Denmark but the readiness Tele Denmark displays to cut lines ensures that it remains a small market.

Spain and Greece, both of which have been receiving the attention of international providers on a small scale for some years, have seen a dramatic rise in the number of players targeting them. As in many countries in Europe, international services are tolerated rather than allowed, and as competitors vie for the attention of readers in the pages of the Spanish press they risk drawing unwelcome attention to the fact that they are there at all.

Spanish regulations were so vague when its domestic network was launched in June 1992 that they were totally ignored, resulting in some of the hardest sex lines yet seen. With adverts appearing in the local press promising story lines about rape and paedophilia, the network was shut down 14 months after it started and some service providers arrested. The charges were later dropped, but the point remains that provocative behaviour may indeed provoke a response.

Greece may have more to lose since it has just begun trials for a domestic network. Despite that fact that premium rate and international audiotex are not the same, in the perception of the public they are synonymous and a bad press for one can tar the other. It remains to be seen what the Greek authorities will do, if anything, about the deluge of unregulated international services it is the recipient of.

NO ACCOUNTING FOR RATES

Whereas domestic audiotex is provided via a unique prefix and charged at a premium above the cost of a normal telephone call, international audiotex is not a premium rate service because there is no premium on the call above the cost of calling an international destination.

However, they have crucial similarities which make them synonymous in the eyes of the consumer and regulator alike. In both instances the caller makes no payment other than the cost of the telephone call, with the service provider being paid a percentage of the revenue generated by that call. Secondly, the national telephone company (telco) collects the payment for the call and passes this onto the service provider, either directly in the case of premium rate or indirectly through the terminating telco in the case of international audiotex.

The amount that the terminating telco receives for a call from any given country is negotiated bilaterally between the two countries and is referred to as the 'accounting rate'. In effect, the accounting rate for a call is the amount that the two telcos have agreed it costs them to provide that call. In fact, payments between telcos are only made periodically to reflect any net imbalance in the number of calls between any two countries.

An understanding of the somewhat abstruse mathematics of the accounting rate is essential to understand international audiotex.

The accounting rate is nominally assumed to represent a division of cost, it is actually a division of profit, albeit in the originating telco's favour. The rates themselves are shrouded in secrecy and the methods of calculating them arcane. International audiotex works only because a terminating telco can afford to give an information provider a percentage of the accounting rate it receives (this can be up to 60 percent of the accounting rate) and still make a profit.

It is also important to note that because the accounting rate bears no relation to the cost charged to the caller, the main beneficiary of any international call is the originating telco. A call costing \$2 per minute, for instance, may see the terminating telco receiving only 50c and the information provider a percentage of this.

What all this means is that virtually everyone is a winner, and what is more a big time winner. Although the information provider receives a low percentage of the cost of the call, it is still on a par with the cents per minute he would receive on a domestic premium rate network. The terminating telco receives the revenue from millions of minutes of traffic for which no infrastructure need be provided except for the lines themselves. The originating telco does even better since it collects up to 75 percent of the revenue of the call, although it also has to take the flack from irate customers who may have been more keen to use the domestic network.

Unlike domestic networks which require equipment and people to be located in the country being served, international services are provided on equipment, and by people, in a foreign country. This effectively means that the only ways of regulating services is to restrict advertising for them, or to cut the lines of those countries deemed to be offending. In most cases the originating telco simply tells the terminating telco that there is a problem and the offending service quietly disappears.

This gently-does-it approach turned out to be not so gentle for Israel's international service providers when the country's Ministry of Communications received complaints from European telcos about services coming out of Israel. The

Ministry shut down the whole network on 12 hours notice only two months after it had opened.

The Ministry has dug its heels in for the past 12 months, doing everything in its power to delay reopening the network despite a favourable ruling from the Supreme Court last June in favour of the service providers. Because of that ruling, the Israeli network's return to the international stage is assured, but the whole mess illustrates the precarious legal framework that players in the industry have to live with.

The bitter legal battle between the Ministry and service providers in Israel is unusual in as much as most service providers enjoy the support of the country they operate from. A complaint from an

originating country's telco or regulatory body usually results in the withdrawal of the offending service, not a total closure of the network.

Public quarrels between telcos outside the US are rare, especially where international services are concerned. Any public debate on international audiotex risks focusing attention on the fact that the cost of providing international circuits has fallen much more dramatically than the cost charged to the consumer.

On occasion threats are not enough, the offending telco refuses to cut the lines, and action is taken. The option of cutting lines is used as a last resort, but it is one that has been exercised by Denmark, Norway and the UK. When an offending service is offered under a special prefix group then those groups of numbers can be isolated and stopped without disrupting normal services. As often as not, the service has been allocated numbers out of a general pool and therefore cannot be blocked in isolation.

This was the situation BT faced with service provider One to One Contacts operating from Guyana who flouted the advertising restrictions laid down by ICSTIS, the UK regulatory body set up to oversee premium rate services. It was only when BT threatened to

REGULATING INTERNATIONAL AUDIOTEX - THE PACE QUICKENS

From the international perspective, the recent High Court judgement in the One to One Contacts case is a definitive answer – that it unequivocally establishes ICSTIS's legal competence to regulate international audiotex. But a careful reading of the High Court judgement reveals that it is not such a simple thing.

The High Court decided the case on two very different grounds and neither ground required the High Court to decide one way or the other whether ICSTIS has legal competence, or authority, to regulate international audiotex. In fact, the High Court specifically declined to decide this question.

First, the High Court expressed the view that the term "premium rate services", as used in ICSTIS's Code, covered international audiotex. The High Court also said that the term "service providers", as used in ICSTIS's Code, did not apply to international service providers. It only applied to UK service providers.

Second, the High Court expressed the view that each and every obligation in the ICSTIS Code applies to "service providers", as defined in the ICSTIS Code, and none of the obligations in

involved in decisions to terminate international service providers in reliance on its Code. The important question is whether such international service providers would be entitled to damages against ICSTIS for the considerable losses they have incurred – and what effect such damages awards might have on ICSTIS's Code and on its ability to regulate in the future.

ICSTIS has moved quickly to remedy the deficiency in the definition of "service providers" pointed up by the High Court. On 21 September 1994, ICSTIS issued a formal Amendment to its Code designed to re-define "service providers" so as to apply to international service providers as well as to UK service providers.

As a result of the formal Amendment, the wording of the ICSTIS Code is now ambiguous as to whether it applies to international service providers. But this does not mean that ICSTIS has legal competence to regulate "international service providers", to apply its Code to international service providers. On this crunch question the High Court specifically declined to decide one way or the other.

The question therefore remains wide open to be decided by another court at another time and possibly in another case. When this happens, the odds are that the English courts will decide to clip ICSTIS's wings before ICSTIS can fly any higher – and certainly before ICSTIS can fly its wings overseas.

"If we started trying to agree a code it would probably take ten years before anything came out the other end."

stop the service itself by cutting all international direct dialled lines to the capital, Georgetown, that the Guyanan PTT came into line.

Unusually, the service provider sought to test the power of BT and ICSTIS in the UK High Court by having an injunction imposed on BT forbidding it from threatening to cut the lines. One to One argued that BT used its dominant market position to force the Guyanan PTT to breach its contract with One to One, and that the ICSTIS Code of Practice did not apply to international service providers. The attempt failed with the High Court ruling that international audiotex services were covered by the ICSTIS Code. One to One is appealing the decision on several complex points of law, but despite the bullish stance of its solicitors, the portents for success cannot be good. Any appeal would have to overcome the lack of sympathy which the courts have in some cases shown towards adult services.

The case arose in the first place because there are no rules and regulations governing international audiotex services, and there is little chance of any being formed. The ITU (International Telecommunications Union) is understandably reluctant to get involved, arguing that its role is to ensure the technical standardisation that facilitates communications, not to regulate the content that might be communicated.

The European Commission has already drafted a voluntary Code of Practice for cross-border premium rate services under the auspices of its telecommunications department, DG XIII. Work started in June 1990 and a whittled down Code was finally ratified in July 1994. David Wiseman, senior consultant to ICSTIS, chaired the group that drafted the Code, and is not optimistic about the chances of involving the international community at large. "Having spent four years trying to get 12 like-minded countries to agree what the regulations should be, there is no way that you could get international agreement that would satisfy anybody," he said. "If we started trying to agree a code it would probably take ten years before anything came out the other end."

According to Wiseman there is little need for an all-embracing international Code in the first place. The only problems that arise with international audiotex are those which concern sex services and since international law invariably allows sovereign states to exercise control over 'public morals and decency', it will always be up to the receiving country to determine what is or is not acceptable.

Arguments between telcos, regulators and service providers over definitions of premium rate

and the status of domestic regulations appear to be academic in practice. Since international audiotex uses the public telephone network not just to facilitate the call but also to pay for the content of the service, national telcos wield immense power. The rule of thumb is that if an information provider defies a country's domestic regulations, he does so at his own risk.

International audiotex exists only because it carries services which are either banned on domestic networks or severely restricted. These services are often banned in the first place because those involved in providing them bombard local newspapers with so much lurid advertising that it provoked a backlash of public moral outrage. 'Hot' advertising may encourage more calls, but it is equally likely to incur the wrath of the local authorities.

The industry as a whole is likely to continue in its boom/bust cycle with markets appearing and disappearing in a haphazard fashion. For information providers the message is that you take your business where you find it, for as long as it lasts. Targeting countries which are prepared to take positive steps against international audiotex is a high risk strategy that could leave you committed to an advertising spend for which you have no lines.

Of more significance to the industry than the threat of international regulation is a recognition that the days of international audiotex as we know it are numbered.

The whole industry is based on the anachronism of the accounting rate, the method by which telcos pay each other for terminating international traffic. Many of these accounting rates have not changed for forty years and were set by comfortable nationalised monopolies. The drive towards deregulation and competition in telecommunications as a whole now finds a broad church of support even among previously conservative telcos, and the pressure to dramatically lower accounting rates is spearheaded by powerful American interests. More a question of when than if, once the accounting rate falls to a level that reflects the true cost of terminating an international call there will be no margin left to pay the information provider.

Every cloud has a silver lining of course. Even as national telcos dismantle the accounting rate, they are building the infrastructure for the Information Superhighway which will facilitate the transmission of high resolution images, real-time video and high quality audio. The brave new world of high bandwidth digital communications will offer plenty of opportunities to imaginative entrepreneurs, and that should keep the regulators busy. ●